

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 05-11803-MLW

SHENIA DANCY-STEWART as
Administratrix of the Estate of EVELINE
BARROS-CEPEDA,
Plaintiffs,

v.

THOMAS TAYLOR, Jr., and the CITY
OF BOSTON,
Defendants.

**DEFENDANTS CITY OF BOSTON'S AND THOMAS TAYLOR'S MEMORANDUM OF
LAW IN SUPPORT OF MOTION TO COMPEL DEPOSITIONS pursuant to fed. R. civ.
P.37 AND PROPOSED SCHEDULE OF WITNESS DEPOSITIONS PURSUANT TO
THIS COURT'S december 20, 2007 order**

Defendants, City of Boston and Thomas Taylor, Jr. ("Defendants"), move this Honorable Court to compel the attendance of several relevant and percipient witnesses, including Maria DaRosa, Luis Carvalho, Carlos Fernandes, and Travon Carter. On several different occasions, each of these four individuals have failed to attend their depositions. See Subpoenas, attached hereto as Exhibit A and returns of service, attached hereto as Exhibits B, C, D, and E. Each of these individuals offer information relevant to the September 8, 2002 incident which gives rise to this civil rights lawsuit.

By way of background, Plaintiff brings this civil rights suit following the death of the decedent, Eveline Barros-Cepeda. At the time of her death on September 8, 2002, the decedent was traveling with Maria DaRosa, Luis Carvalho and Carlos Fernandes in a vehicle driven by Brima Wurie. When the Wurie vehicle failed to heed police commands to stop and then

deliberately struck Boston Police Officer Michael Paillant, Officer Taylor discharged his firearm to apprehend Wurie and prevent further injury to Officer Paillant. Following this incident, Ms. Barros-Cepeda, a back seat passenger in the vehicle, suffered fatal wounds. Travo Carter was a bystander at the time of the incident, standing near the incident. He informed police investigators back in 2002 that he had witnessed the incident. Each of these individuals, therefore, may offer relevant eyewitness testimony to the September 8, 2002 incident. None of these individuals, however, have complied with deposition subpoenas and attended their depositions. Defendants have also attached for the Court a Proposed Order. See Exhibit F.

Additionally, prior to this Court's December 19, 2007 status conference, the Defendants had scheduled the continued deposition of Domingas Depina, for January 2, 2008 at 10:30 a.m. and Carlos Cepeda for January 4, 2007 (for document production only) at 10:00. Additionally, the Defendants had previously scheduled the deposition of Diane Cepeda at 11:00 a.m. for January 4, 2007. The Defendants apprise the Court of these individuals' depositions for informational purposes only and not for purposes of their motion to compel. It is Defendants' counsel understanding, based on their counsel's representations, that each of these individuals plan to attend their scheduled depositions. With the Court's permission, the Defendants wish to keep these depositions scheduled as planned.

Accordingly, the Defendants' proposed schedule for their remaining depositions is as follows:

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|--------------------|---|
| 1. Domingas Depina | 10:30 a.m. on January 2, 2008 |
| 2. Carlos Cepeda | 10:30 a.m. on January 4, 2008
(document production only) |
| 3. Diana Cepeda | 11:00 a.m. on January 4, 2008 |

4. Dana Grant	10 a.m. on January 14, 2007
5. Travo Carter	2 p.m. on January 14, 2007
6. James Nicholas	11 am. on January 15, 2007
7. Maria DaRosa	10 a.m. on January 16, 2007
8. Luis Carlvalho	2 p.m. on January 16, 2007
9. Carlos Fernandes	10 a.m. on January 17, 2007
10. Brima Wurie	11 am. on January 18, 2007

WHEREFORE: The Defendants City of Boston and Thom as Taylor, Jr. respectfully request that this Honorable Court allow their motion.

Respectfully submitted,
DEFENDANTS, THOMAS TAYLOR, JR.
AND CITY OF BOSTON,

By their attorneys:

/s/ Helen G. Litsas

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CERTIFICATE OF SERVICE

I, Helen G. Litsas, hereby certify that on this date I served a copy of the foregoing documents upon lead plaintiff's counsel, Andrew Stockwell-Alpert, by electronic filing and by postage prepaid, first class, U.S. Mail.

12/21/07 /s/ Helen G. Litsas

Date Helen G. Litsas